

**PUBLISHED**

**FILED**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**MAR 27 1996** SA

D. SUE ASHLEY, CLERK  
United States Bankruptcy Court  
Eastern District of Oklahoma

**IN RE:**

**THOMAS R. GRIFFITH**  
SSN#442-76-3085

**DAWN A. GRIFFITH**  
SSN#448-64-6389

**Debtors.**

**KENNETH G.M. MATHER, Trustee**

**Plaintiff,**

**vs.**

**BORDEN, INC., a corporation,**

**Defendant.**

Case No. 94-71139  
Chapter 7

Adv. No. 95-7031

**ORDER**

This matter comes before the Court on the complaint filed by the Trustee to recover a preferential transfer. The parties have waived a trial and have agreed that the Court could decide this proceeding based exclusively on the pleadings filed, stipulations and memoranda of law. The pivotal issues for the Court to decide are whether Borden, Inc. ("Borden") has a security interest in a covenant not to compete and whether the Trustee can recover the proceeds received from the covenant not to compete as a preferential transfer. Today, we hold that Borden has a perfected security interest in the covenant not to compete, and thus, the Trustee has not proven a preferential transfer.

**FINDINGS OF FACT**

1. This matter is a core proceeding pursuant to 28 U.S. C. § 157(b)(2)(F).
2. On July 12, 1990, one of the Debtors, Thomas Griffith, signed a Distributorship

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